

**Re Manor Farm, Poyle Road, Slough.**

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**OPENING ON BEHALF OF SLOUGH BOROUGH COUNCIL**

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**1 INTRODUCTION**

- 1.1 Slough has the largest cluster of data centres in Europe and the second largest in the world after Virginia. Not only that Slough Borough Council (“SBC”) has permitted very large data centres recently which will be used by Equinix, Yondr, and Microsoft. SBC has worked in combination with SEGRO, the developers of the largest cluster in Europe, to produce a series of Simplified Planning Zones (“SPZ”) in 1995, 2004, 2014 and most recently 2024. This has helped to facilitate the successful cluster of data centres on the trading estate. SBC has used the planning system with their policies, the SPZ and development management to deliver more data centres than any other local authority in the Country. Yet SBC are adamantly opposed to this data centre for a number of extremely sound reasons which deserve respect.
- 1.2 This site is in one of the most fragile and vulnerable parts of the Green Belt around London. It is protected by an even more stringent policy test which the Secretary of State found to be merited. The Secretary of State said that policy CP2 should be given “full weight”. It is what the High Court described as “very high bar” because of the special sensitivity of the tightly defined area to which it applies. Accordingly, this site has the very highest level of protection against development more so than the Green Belt.

1.3 Not only does this development conflict with Green Belt and more stringent Strategic Gap and CVP policy it also conflicts with the Government statements and policies on Heathrow expansion. This is a serious conflict with proposals that the Government think could inject billions into the economy, create over 100,000 jobs and strengthen Heathrow's status as a passenger and air freight hub. This development would clearly breach these policies. This development is on a site required by Heathrow for freight forwarding in their third runway proposal masterplan in 2019 and HAL have confirmed that it "intends to include the Manor Farm site as part of its proposal for freight forwarding and electrical infrastructure" in their evidence. It would conflict with Government statements in support of this critical project for economic growth..

1.4 This opening will cover the issues in the following order:

- i) Conflict with Green Belt Policy.
- ii) Conflict with Strategic Gap and Colne Valley Regional Park policy.
- iii) Adverse effect of the proposals on the proposals for the expansion of Heathrow.
- iv) The weak need case put forward.
- v) Conclusion and conflict with development plan.

## **2 CONFLICT WITH GREEN BELT POLICY**

2.1 The Government in the NPPF is clear that "*The Government attaches great importance to Green Belts*". The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.<sup>1</sup>

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<sup>1</sup> NPPF, §142

## **Inappropriate Development**

- 2.2 At the heart of the Appellant's case on the Green Belt is a glaring error that they made in all of the application documents right up to and including their Statement of Case. In the two planning statements and statement of case the Appellant wrongly claimed that parcel A is previously developed land ("PDL")
- 2.3 The two planning statements and the statement of case all cited the planning history but entirely failed to mention two critical parts of the planning history.
- i) Firstly, they failed to mention that there is an enforcement notice. This required this land to be restored "to agricultural use by reseeded".
  - ii) Secondly, they failed to mention that the western part shaded green was subject to a condition that required "the building and structures to be removed and the site reinstated to agriculture" within 6 months of the use ceasing which has not occurred.
- 2.4 This glaring and unexplained critical omission from the planning history led to an extraordinary error that led the Appellant to continually claim that:
- Parcel A is previously developed land.*  
*The Appeal site is predominantly previously developed.*
- 2.5 Both claims are absolutely untenable and the Appellant can no longer make them now they have realised the facts. The simple position is set out in one diagram.



- 2.6 The green and purple represent land that is compelled by the planning system to be restored. It cannot possibly be regarded as PDL. The yellow land is also due to be restored.
- 2.7 Parcel B is all greenfield agricultural land.
- 2.8 The Appeal Scheme would not utilise “Grey Belt” land, because the Appeal Site is not “Grey Belt”. Grey Belt is defined as “land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143’ of the Framework.”<sup>2</sup>
- 2.9 The gateway to the Grey Belt that the appellant claimed when they were seeking planning permission from the Council and when they submitted their appeal namely that the site is PDL is simply wrong and untenable with the facts as they are as opposed to the erroneous position they set out.. The appellant has now

<sup>2</sup> NPPF (Dec. 2024), p.73, **Grey belt:** For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development

correctly conceded that the site should not be considered Grey Belt on the basis of PDL.

- 2.10 Mr Stimpson’s case which is entirely consistent with the Council’s statement of case is that only a very small part of the Appeal Site is previously developed land (“PDL”)<sup>3</sup> The Appeal Site cannot be defined as PDL so cannot be considered “Grey Belt” on that basis. The appellant has belatedly accepted this in a massive but clearly correct volte face from their planning statement and statement of case.
- 2.11 Instead, the Appellant’s Grey Belt case can now only rely on their subsidiary and meritless point that they allege that the appeal Site does not make a strong contribution to Green Belt purposes (a), (b) and (d).
- 2.12 First, the Appeal Site makes a strong contribution to Green Belt purpose (a)<sup>4</sup> (to check the unrestricted sprawl of large built-up areas), having regard to the considerations which inform such judgments in the PPG.<sup>5</sup> In terms of being free from existing development, the Appeal Site performs strongly. Parcel A should be almost entirely free of existing development, because it is required to be restored to that state. It should be treated as such. Parcel B is free of existing development. It is not credible to suggest that physical features in reasonable proximity to the Appeal Site could restrict and contain development. There is nothing reasonably proximate to the west of the Appeal Site to restrict or contain development, and the Appellant wants to build Phase 2 of its data centre proposals there. The Appeal Site is near to Greater London, a large built-up area. The scale and nature of the Appeal Scheme would result in an incongruous pattern of development.
- 2.13 Second, the Appeal Site makes a strong contribution to Green Belt purpose (b) (to prevent neighbouring towns merging into one another), having regard to the

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<sup>3</sup> CD 11.1, §3.45

<sup>4</sup> NPPF §143(a)

<sup>5</sup> PPG, Green Belt, Paragraph: 005 Reference ID: 64-005-20250225, reproduced in DW’s Table 1, §4.19, p.14.

considerations which inform such judgments in the PPG.<sup>6</sup> The same points about being free from existing development apply as set out in relation to purpose (a), above. The Appeal Site forms a substantial (and important) part of the gap between towns, the development of which would be likely to result in the loss of visual separation of towns.

- 2.14 Provided either of those judgements are accepted by the decision-maker, then the criteria in paragraph 155(a) of the NPPF is not made out, and the Appeal Scheme constitutes inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### **THE APPEAL SCHEME WOULD CAUSE SUBSTANTIAL HARM TO THE OPENNESS OF THE GREEN BELT**

- 2.15 In any event, the Appellant accepts that the Appeal Scheme would result in an overall substantial level of harm to the openness to the Green Belt.<sup>7</sup> It is common ground that there would be substantial harm to the spatial aspect of openness arising from the Appeal Scheme.<sup>8</sup> The Appellant also accepts that the Appeal Scheme would generate localised substantial harm in terms of duration and ‘remediability’. The parties disagree over the level of harm to the visual aspect of openness arising from the Appeal Scheme, but that does not change the shared overall assessment on the substantial harm to openness.
- 2.16 The substantial level of harm arising in this case should not be underplayed. Paragraph 153 of the NPPF says that authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Here, this includes:

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<sup>6</sup> PPG, Green Belt, Paragraph: 005 Reference ID: 64-005-20250225, reproduced in DW’s Table 1, §4.46, p.18.

<sup>7</sup> CD 11.8, §7.33

<sup>8</sup> CD 11.8, §7.10

- i) **Harm by definition - substantial weight:** The Appeal Scheme is inappropriate development in the Green Belt and should not be approved except in very special circumstances.
- ii) **Harm to openness – substantial weight:** Even by the Appellant’s own case, there is substantial harm to spatial openness, which as the fundamental aim of the Green Belt must be given substantial weight. Mr Stimpson’s clear and unsurprising view that this massive data centre and associated development will cause substantial harm not only spatially but also visually; the Appellant accepts harm to visual openness and impact on it.
- iii) **Harm to Purpose (a) – substantial weight:** There is severe harm to Green Belt purpose (a) which must be given substantial weight.
- iv) **Harm to Purpose (b) – substantial weight:** There is significant harm to Green Belt purpose (b) which must be given substantial weight.
- v) **Harm to Purpose (c) – substantial weight:** There is significant harm to Green Belt purpose (c) which must be given substantial weight.

2.17 Added to that already-heavy basket of harms amongst other harm there is significant harm to the strategic gap; harm to the clear policy promoting the third runway by using a site that is essential for the successful operation of the airport and severe harm to the Colne Valley Regional Park.

### **Absence of VSC**

2.18 Paragraph 153 of the NPPF provides that ‘Very Special Circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

2.19 Other considerations do not clearly outweigh the identified substantial harm to the Green Belt by reason of inappropriateness and any other harm. The Appellant’s own alternative sites assessment was so poor that they belatedly submitted a new one. Neither acknowledge that there are a large number of alternative sites available which are capable of meeting need for data centres in the Slough Availability Zone. In those circumstances, it would be wrong to

afford significant weight to locational requirements and the lack of alternative sites. With the enormous pipeline of supply there is simply no “need” for the Appeal site at all when the demand is properly analysed. The demand cannot possibly in this case be given anything like sufficient weight to found the case for VSC. Without need the rest of the VSC are merely makeweights.

### **3 CONFLICT WITH STRATEGIC GAP POLICY**

3.1 The site is all within the Strategic Gap.

3.2 CP1 and CP2 are central policies to the Slough Core Strategy. CP1 is the spatial vision and CP2 sets out the policy test for one of the critical components of that the strategic gap.

3.3 In the SIFE appeal<sup>9</sup> the Secretary of State endorsed conclusions of his Inspector that “fragmented and vulnerable” is a good description of the characteristics of this area.

*I find that ‘fragmented and vulnerable’ is a good description of the characteristics of the Green Belt area east of Slough*

3.4 The Secretary of State in the SIFE appeal endorsed the reasoning of the Inspector who concluded that the strategic gap policy was merited having regard to the principles of sustainable development in the Framework.

*The policy supports the Borough’s spatial strategy, which is firmly based on the principles of sustainable development. At the heart of the Framework is a presumption in favour of sustainable development. The very high bar set by the policy is merited because of the need for distinguishing this particularly sensitive area of the Green Belt. This sensitivity stems from the combination of a number of factors that are not present to a similar degree in other parts of the Green Belt..*

3.5 The Strategic Gap imposes an additional policy restraint on proposals for development and should be given full weight.

*I conclude that the Strategic Gap policy imposes an additional policy restraint*

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<sup>9</sup> CD 7.10

*on proposals for development located in this very sensitive area. The policy has full weight as a key component of the development plan for Slough. The 'it is essential to be in that location' test is distinct from demonstrating 'very special circumstances'.*

- 3.6 This Secretary of State decision was upheld in the High Court in ***Goodman Logistics v Secretary of State*** [2017] EWHC 947. Mr Justice Holgate<sup>10</sup> gave a summary of the Inspector's conclusions on the strategic gap which were endorsed by the Secretary of State a decision which he upheld and agreed with her interpretation of policy. Mr Justice Holgate's summary of the Inspector's and Secretary of State decision on the Strategic gap was as follows.

*The Strategic Gap is particularly important. It is a fragmented and vulnerable part of the Green Belt. The very high bar set by CP2 is merited because of the need to distinguish this particularly sensitive area of the Green Belt. The policy should be given full weight as a key component of the development plan for Slough...*

- 3.7 Mr Justice Holgate explained the rationale for the policy in the language of the Core Strategy Explanatory Memorandum at paragraph 7.26.

*The remaining open land in Colnbrook & Poyle, east of Langley/Brands Hill, is particularly important because it forms part of the Colne Valley Park and acts as the strategic gap between the eastern edge of Slough and Greater London. Additional restraint will therefore be applied to this fragmented and vulnerable part of the Green Belt...."*

- 3.8 This policy has been endorsed and interpreted as a very high bar to development in not one but two High Court cases The first was ***Helioslough v Secretary of State*** [2011] EWHC 2054. That decided that CP2 applies an additional policy restraint to the Strategic Gap (and the Colne Valley Park) over and above Green Belt Designation and sets a "very high bar" because of the special sensitivity of the tightly defined area which it applies. This is the summary of what it held by Holgate J in ***Goodman Logistics v Secretary of State*** [2017] EWHC 947.

*[the] High Court decided ( [2011] EWHC 2054 (Admin) ) that CP2 applies an additional policy restraint to the Strategic Gap (and the Colne Valley Park) over and above Green Belt designation, and which sets "a very high bar" (paragraph 86), because of the special sensitivity of the tightly defined area to which it applies.<sup>11</sup>*

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<sup>10</sup> As he then was

<sup>11</sup> See para 49 of CD 7.8

- 3.9 So Core Policy 2 (“CP2”) applies a layer of restraint within the Strategic Gap *in addition to* that provided by Green Belt policy; the test to be applied is whether the development “is essential to be” in the Strategic Gap. Holgate J said “it is plain that CP2 proceeds on the basis that the “very special circumstances” test in Green Belt policy is insufficiently strong to protect the vulnerable Strategic Gap”.

**The very high bar for permitting development in the Strategic Gap has not been met**

- 3.10 As the Secretary of State decided and the High Court held the appellant would need to show
- i) That the project is essential.
  - ii) It is essential to be in this location.
- 3.11 They have failed to show either. It has not been demonstrated that the development itself is essential. The demand case is extremely weak as will become apparent in evidence. It is nothing like sufficient to be essential.
- 3.12 Nor has the appellant shown that it is essential for the Appeal Scheme to be in this location within the Strategic Gap between Slough and Greater London. There are no good geographical, operational or planning reasons why it is essential to build the Appeal Scheme in this location.
- 3.13 The very high bar for permitting development in the Strategic Gap has not been met.

**Harm to CVP**

- 3.14 The Colne Valley Regional Park (“CVP”) is the first substantial taste of countryside to the west of London. CVP, founded in 1965, stretches from Rickmansworth in the north to Staines and the Thames in the south.

- 3.15 CVP is of regional importance. The stringent presumption against development in the CVP recognised the strategic role Colnbrook and Poyle had in preventing the severance of the park. This policy has been upheld at a number of appeals. For example in the solar farm appeal the Secretary of State concluded that the proposed development there 3 m high panels would have an adverse impact on the CVP and Strategic Gap<sup>12</sup>.
- 3.16 The Appeal Scheme with its 30m high data centre would result in the further urbanisation, loss of countryside recreation opportunities and severance of the CVP. Resultantly, the Appeal Scheme would severely harm the CVRP. It would prevent the restoration of the appeal site which can happen absent this scheme pursuant to the enforcement notice and condition.
- 3.17 As with the Strategic Gap, the Appellant has not demonstrated that it is essential for the Appeal Scheme to be in this location within the CVP.

## **4 CONFLICT WITH GOVERNMENT STATEMENTS ON HEATHROW AND ANPS AND PROPOSALS**

- 4.1 It is quite clear that the Government are fully supportive of the third runway at Heathrow. The Secretary of State's statement of 29 January 2025 is clear as to that. The Transport Secretary told Parliament on 29 January 2025 that the Government *"supports and is inviting proposals for a third runway at Heathrow"* (in the Written Ministerial Statement "WMS").
- 4.2 The reasons for this reveal how important this project is to HM Government. The Secretary of State said:
- "Expansion could inject billions into our economy, create over 100,000 extra jobs, strengthen Heathrow's status as a global passenger and air freight hub, and deliver major benefits for passengers, including lower fares and reduced delays."*

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<sup>12</sup> See CD10 B4

- 4.3 In June 2025, the Transport Secretary reiterated that the Government “supports expansion at Heathrow Airport and has invited proposals for a third runway to be brought forward by this summer”. She added:

*“The government’s clear objective is to enable the delivery of an operational third runway by 2035, with applications for planning consent coming forward in time to enable decisions to be made this Parliament. The expansion scheme should seek to maximise cross-economy growth opportunities and value for money. Scheme costs should be minimised for passengers customers and government ..”*

- 4.4 This proposal here is for a data centre to be built on a site that is “required as part of Heathrow’s expansion”. It is on a site chosen to be used for freight forwarding after an exhaustive search leading up to the Masterplan in 2019. It is on a site that it is essential for the successful operation of the airport scheme.
- 4.5 One of the key reasons the Heathrow Northwest Runway Project is the Government’s “preferred scheme” is because only the preferred scheme is likely to deliver the range of strategic benefits identified in the ANPS.
- 4.6 The Government’s policy affords particular weight to the fact that the Heathrow Northwest Runway scheme delivers the greatest support for freight, with the plans for the scheme include a doubling of freight capacity at the airport.
- 4.7 Since the adoption of the ANPS in 2018, Heathrow Airport Limited (“HAL”), as Heathrow Airport’s existing operator, carefully planned and prepared a detailed masterplan across several years. Throughout, careful consideration has been given to the requirements set out in the ANPS, which guided the composition and layout of the Preferred Masterplan.
- 4.8 The proposals to put a massive data centre on land that has long been planned to contain over 40% of the freight forwarding land contained in HAL’s proposals. Just last week HAL confirmed that the Appeal Scheme is an important site that is required as part of Heathrow’s expansion proposals. The Appellant’s plans diametrically conflict with HAL’s plans.

4.9 Mr Ray's evidence unsurprisingly in these circumstances is that the Appeal Scheme conflicts with the proposals for delivering the Government's preferred scheme, the Governments Statements in support of the third runway and national policy.

## **5 DEMAND CASE VERY WEAK.**

5.1 Slough is probably the most permissive authority of data centres anywhere in our Country. They are one of the very few authorities in the Country that has used a mechanism of an SPZ [simplified planning zone] which has helped to facilitate "Europe's largest data centre cluster".<sup>13</sup> Slough has the largest data centre cluster in the world behind Ashburn, Virginia.<sup>14</sup> Not only have Slough permitted expressly or through the SPZ the largest cluster of data centres in Europe they have also recently permitted some large hyperscale data centres.

- i) On the Akzo Nobel site it has permitted three facilities with a total of 67,337 sqm. Yondr are in buildings a and b. Equinix have building 3.
- ii) At Langley business centre planning permission has been granted for Microsoft for a 96,500 sq m data centre<sup>15</sup>

5.2 Not only that building on three decades of innovative planning Slough have recently introduced a new SPZ for the Slough Trading Estate which will deliver 4.3m square foot of data centres in the next 7 years. [CD10 I1] That is a figure that comes from SEGRO who have built 32 data centres on the Slough Trading estate already. They have delivered already the largest cluster of data centres in Europe. Their figures for what they are able to deliver are worthy of enormous respect because of their track record. They obviously have a power strategy and have more experience at powering data centres in Slough than any other company.

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<sup>13</sup> See House of Commons CD 12.6 at page 17

<sup>14</sup> Paul Stimpson at 2.6

<sup>15</sup> Paul Stimpson page 16

- 5.3 Thus the Appellant's criticism of Slough and Slough's policies alleging that they do not deliver data centres is spectacularly misplaced. Slough have delivered the aspirations of the Government for data centres better than probably any other council in the country.
- 5.4 The Appellant's case on demand for data centres is based on poor research. The first alternative sites assessment failed to mention any of the supply at the Slough Trading Estate. It missed Europe's largest data centre cluster. The second ASA was produced after Slough BC had already shared information from SEGRO that they had a pipeline of 4.3m square foot. Bizarrely rather than accepting that the second ASA showed a complete lack of understanding of the STE and suggested that "the site is therefore considered not to be available for development".
- 5.5 The case on the numbers of the appellant is not at all robust when it is analysed as Paul Stimpson will explain in evidence. Insofar as it attempts to draw support from an appeal decisions this should be looked at in its proper context. It was expressly decided on the basis of the evidence in that case which did not cover key issues and need was not contested so obviously not tested.
- 5.6 The appellant unattractively have sought to say that this development should be permitted because they have a private advantageous contract for connection to the grid. That is a contract that they have not disclosed even the key terms of. Even if they are right about all of that it is difficult to see why the Secretary of State should permit a data centre if it is one of the worst sites in planning terms imaginable because they have secured a private contract and others may have a delay in getting the power.
- 5.7 The demand case is nothing like sufficient to found the case on VSC and absolutely no where near being able to pass the test being essential development and essential in this location.

## **6 CONCLUSION AND CONTRARY TO DEVELOPMENT PLAN**

- 6.1 This development is not appropriate and cannot show very special circumstances. It is substantially harmful in the Green Belt and should be refused on that basis.
- 6.2 It is contrary to the more stringent test for Strategic Gap which has found to be fully justified by the Secretary of State and upheld by the High Court. This is a development that is contrary to the development plan. The development having failed this clear test should not be permitted. It is contrary to the development plan read as a whole.
- 6.3 The Appeal Site is required as part of Heathrow's expansion plans, and the Appellant has not shown that its proposals comply with the Government's policy on Heathrow expansion. Rather, HAL (i.e., those in the best position to know) suggest that the Appeal Scheme actively conflicts with those plans.

**Richard Ground KC**

**Jack Barber**

October 2025

**Cornerstone Barristers**  
2-3 Gray's Inn Square  
London WC1R 5JH.

